

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 18, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

THOMAS-EDWARD-ELMER SMITH,

Plaintiff,

v.

SUZI CASTELO, private and professional
capacity; LINDA MILLER SHEETS,
private and professional capacity; STEVE
RAMSEY, private and professional
capacity; MICHAEL BAUMGARTNER,
private and professional capacity; JOE
HOLLENBACK, private and professional
capacity; SPOKANE COUNTY; and
STATE OF WASHINGTON,

Defendants.

No. 2:22-CV-00325-SAB

**ORDER DENYING
CONSTRUED MOTION FOR
RECONSIDERATION**

Before the Court is Plaintiff's Verified Petition for Motion to Vacate Judgment Based on the Following Objections to the Denial of Motion of Reconsideration of Order Granting Defendants' Motion to Dismiss, ECF No. 67. Plaintiff is *pro se*. Defendants are represented by Casey A. Evans and Dayle Andersen, Jr. The motion was heard without oral argument. The Court construes the motion as a motion for reconsideration.

**ORDER DENYING CONSTRUED MOTION FOR
RECONSIDERATION # 1**

1 Reconsideration is an extraordinary remedy, to be used sparingly in the
2 interests of finality and conservation of judicial resources.” *Kona Enterprises, Inc.*
3 *v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). A motion for
4 reconsideration may be reviewed under either Federal Rule of Civil Procedure
5 59(e) (motion to alter or amend a judgment) or 60(b) (relief from judgment). *Sch.*
6 *Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). “A district court
7 may properly reconsider its decision if it ‘(1) is presented with newly discovered
8 evidence, (2) committed clear error or the initial decision was manifestly unjust, or
9 (3) if there is an intervening change in controlling law.’” *Smith v. Clark Cnty. Sch.*
10 *Dist.*, 727 F.3d 950, 955 (9th Cir. 2013) (quoting *Sch. Dist. No. 1J*, 5 F.3d at 1263).
11 “There may also be other, highly unusual, circumstances warranting
12 reconsideration.” *Sch. Dist. No. 1J*, 5 F.3d at 1263. Whether to grant a motion for
13 reconsideration is within the sound discretion of the court. *Navajo Nation v.*
14 *Confederated Tribes and Bands of the Yakima Nation*, 331 F.3d 1041, 1046 (9th
15 Cir. 2003).

16 Plaintiff failed to meet the standard for reconsideration outlined in case law.
17 Again, Plaintiff did not meet any of the three grounds for reconsideration outlined
18 in *Smith*. Therefore, this extraordinary remedy is not available, and the motion is
19 denied. The case remains closed.

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**ORDER DENYING CONSTRUED MOTION FOR
RECONSIDERATION # 2**

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Plaintiff's [Construed] Motion for Reconsideration, ECF No. 67, is
3 **DENIED.**

4 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to file
5 this Order and provide copies to counsel and *pro se* Plaintiff.

6 **DATED** this 18th day of August 2023.



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12 Stanley A. Bastian
13 Chief United States District Judge
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